

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 L-03 FEA-01 ERDA-05

AID-05 CEA-01 CIAE-00 CIEP-01 COME-00 DODE-00 FPC-01

H-02 INR-07 INT-05 NSAE-00 NSC-05 OMB-01 PM-04

USIA-06 SAM-01 OES-06 SP-02 SS-15 STR-04 TRSE-00

ACDA-07 JUSE-00 PA-01 PRS-01 /124 R

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EUR/NE - KSHIRLEY

EUR/WE - EBEIGEL

EA/ANP - HNELSON

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R 291710Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY PARIS

INFO USMISSION OECD PARIS

USMISSION EC BRUSSELS

USMISSION USBERLIN

USMISSION GENEVA

AMEMBASSY BONN

AMCONSUL FRANKFURT

AMCONSUL HAMBURG

AMEMBASSY HELSINKI

AMEMBASSY LONDON

AMCONSUL MELBOURNE

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AMCONSUL VANCOUVER

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E.O. 11652: N/A

TAGS: ETRD, US, BE, AS, FR

SUBJECT: ANTITRUST: INVESTIGATION OF MAJOR ZINC REFINERS

REF: (A) STATE 098253, (B) STATE 131692, (C) PARIS 14931
(NOTAL), (D) CANBERRA 5140 (NOTAL), (E) BRUSSELS 7036
(NOTAL), (F) CANBERRA 5442 (NOTAL)

1. REFS (A) AND (B) PROVIDED BASIC INFO ON NATURE OF ANTITRUST INVESTIGATION BY US DEPT OF JUSTICE INTO MAJOR REFINERS OF ZINC. BASIC STATUS OF INVESTIGATION HAS NOT CHANGED AND POSTS SHOULD DRAW ON PREVIOUS CABLES IN RESPONDING TO QUESTIONS ON THIS MATTER. AS INDICATED, VOLUNTARY LETTER REQUESTS FOR INFORMATION WERE SENT IN LATE APRIL TO SOME 24 FOREIGN ZINC PRODUCERS OR REFINERS. FOR YOUR BACKGROUND, COPIES OF THIS LETTER ARE BEING SENT BY AIR POUCH. AT THE PRESENT TIME, JUSTICE IS ASSESSING REPLIES RECEIVED TO DATE TO DETERMINE WHAT FURTHER ACTION, IF ANY, IS WARRANTED.

2. FOR CANBERRA. NO INFO ON ZINC CASE BEYOND REFTELS (A) AND (B) IS CURRENTLY AVAILABLE. IT SHOULD BE EMPHASIZED THAT INFORMATION REQUESTS TO COMPANIES ARE ENTIRELY VOLUNTARY. NO RPT NO SUBPOENAS HAVE BEEN ISSUED IN THE ZINC INVESTIGATION. IT IS POSSIBLE THAT AUSTRALIAN PRESS HAS CONFUSED PRELIMINARY INVESTIGATION INTO THE ZINC INDUSTRY WITH ANOTHER WHICH JUSTICE HAS INITIATED IN URANIUM. THE URANIUM INVESTIGATION IS BEING CONDUCTED BY A GRAND JURY; SUBPOENAS HAVE BEEN ISSUED TO U.S. COMPANIES, OR IN A FEW CASES TO US SUBSIDIARIES OF FOREIGN CORPORATIONS. HOWEVER, NO RPT NO SUBPOENAS HAVE BEEN ISSUED TO ANY AUSTRALIAN PARTY OR TO ANY U.S. SUBSIDIARY OF AUSTRALIAN FIRMS. BOTH ZINC AND URANIUM INVESTIGATIONS ARE MOTIVATED BY DOJ WISH TO DETERMINE IF THERE HAS OCCURRED ANTI-LIMITED OFFICIAL USE

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COMPETITIVE CONDUCT ON THE PART OF U.S. OR FOREIGN ENTERPRISES IN VIOLATION OF U.S. STATUTES. THEY ARE NOT RPT NOT LINKED TO U.S. COMMODITY POLICY NOR DO THEY CARRY ANY IMPLICATION FOR ESTABLISHMENT OF QTE INTERNATIONAL ANTITRUST LEGISLATION END QTE.

3. FOR CANBERRA IN RESPONSE TO CANBERRA 5442. AS INDICATED IN OTHER PORTIONS OF THIS TELEGRAM, DEPARTMENT HAS

NOT RPT NOT INTERVENED IN DOJ QTE ANTITRUST OFFENSIVE
END QTE. HAUPT IN HIS AUSTRALIAN FINANCIAL REVIEW ARTICLE
HAS DRAWN AN ERRONEOUS CONCLUSION. IN HIS INTERVIEWS,
HE QUITE NATURALLY AND CORRECTLY DEDUCED THAT THERE IS
A U.S. FOREIGN POLICY IN COMMODITIES, AND THAT THE DEPART-
MENT FOLLOWS DEVELOPMENTS IN ANTITRUST CASES, INCLUDING
THE ZINC INVESTIGATION. HOWEVER, HE WAS NOT TOLD NOR IS
IT PRESENTLY THE CASE THAT THE DEPARTMENT IS INTERVENING
IN THE MATTER. WE DO, OF COURSE, COMMENT TO JUSTICE
WITH REGARD TO THE FOREIGN POLICY ASPECTS OF ANTITRUST
ACTIONS, WHEN WARRANTED. THUS FAR, DEPARTMENT HAS TAKEN
NO SUCH ACTION IN THE ZINC INVESTIGATION.

4. FOR PARIS. YOU SHOULD DRAW ON REFTEL (B) WHICH POINTS
OUT THAT JUSTICE ALSO HAS SEPARATE INVESTIGATION INTO U.S.
DOMESTIC ZINC PRICING. THIS SHOULD DISPEL GOF NOTION
THAT INVESTIGATION OF FOREIGN ZINC REFINERS IS RESULT OF
EFFORT BY U.S. REFINERS TO CLOSE OFF EUROPEAN EXPORTS TO
THE U.S. AS INDICATED ABOVE, JUSTICE INVESTIGATION IS
INDEPENDENT ACTION PROMPTED BY POSSIBLE VIOLATION OF U.S.
ANTITRUST STATUTES.

5. FOR BRUSSELS. ON JULY 16, THE COMMERCIAL COUNSELOR
OF BELGIAN EMBASSY EMILE MASSA AND FIRST SECRETARY LEO
STORM MADE DEMARCHE TO THE DEPARTMENT ON THE ZINC INVESTI-
GATION. THEY BASICALLY MADE SAME POINTS SUMMARIZED IN
REFTEL (E), BUT DID NOT SUGGEST THAT WE ATTEMPT TO INTER-
VENE TO HALT INVESTIGATION. ALTHOUGH WE HAVE INFORMALLY
MADE KNOWN BELGIAN VIEWS TO JUSTICE, DEPARTMENT DOES NOT
FIND GROUNDS WHICH AT THIS TIME WOULD JUSTIFY RAISING
FIRM OBJECTIONS TO THE INVESTIGATION. WHILE THE INFOR-
MATION REQUEST IS BROAD AND SEEKS A SIGNIFICANT AMOUNT
OF INFORMATION, IT IS NOT UNUSUAL OR INTENDED TO CONVEY
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OR IMPLY ANY CONCLUSIONS AS TO THE RECIPIENT'S CONDUCT.
OUR REVIEW OF THE JUSTICE LETTER DOES NOT INDICATE THAT
THE QUESTIONS ARE OFFENSIVE OR INSIDIOUS. IF THE BELGIAN
FIRMS WISH TO SEEK A DELAY TO SEPTEMBER 15 IN RESPONDING
TO THE JUSTICE REQUEST, THEY CAN CERTAINLY COMMUNICATE
THIS THROUGH THEIR ATTORNEYS OR OTHERWISE. IN FACT, DOJ
IS PREPARED AT ANY TIME TO DISCUSS THE WHOLE MATTER WITH
THE COMPANIES OR REPRESENTATIVES OF THE EMBASSY, IF THIS
IS DESIRED. WE HAVE INFORMED EMBASSY THAT UNLESS MORE
CONCRETE AND SUBSTANTIVE OBJECTIONS ARE RECEIVED, IT IS
DIFFICULT FOR US TO INTERVENE. NO OTHER COUNTRIES HAVE
MADE DEMARCHES. KISSINGER

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